



## General Conditions for the Purchase of Production Material, Edition January

### 1. Relevant Conditions

The legal relationship between supplier and purchaser shall be governed by the following conditions and any additional terms agreed between the contracting parties. Changes and amendments to these conditions shall be valid only if made in writing. No other general conditions shall be applicable, even if they were not explicitly rejected in any individual case.

### 2. Orders

1. Supply contracts (order and acceptance thereof) and supply programmes as well as any modifications and amendments thereto shall be valid only if made in writing. Supply programmes may also be issued by means of telecommunication.

2. If supplier does not accept the order within three weeks following receipt thereof, purchaser shall have the right to revoke such order. Any delivery schedule shall become binding if supplier does not reject such delivery schedule within two weeks following receipt thereof.

3. To the extent that the goods to be supplied are to be used in one of the plants of AUDI AG or VW AG, the delivery schedules will be issued and shipments will be paid for by such other companies.

4. To the extent it is reasonably acceptable to the supplier, purchaser may demand that changes be made to the goods to be supplied relating to both design and implementation. In this case the consequences, especially with respect to additional costs or reduction of costs, as well as with respect to delivery dates, shall be resolved in an appropriate and mutually agreeable manner by supplier and purchaser.

### 3. Payment

1. Payment shall be made in accordance with the terms set forth in the orders and only after purchaser has received complete billing documents and customs documents if any. In cases of deliveries made prior to the agreed delivery date, the payment date will be determined with reference to the agreed delivery date. All invoices must specify the Supplier number, Order number, delivery note number, Material reference, as well as all legal and tax requirements in force at any time and any other information that may be required by LAMBORGHINI.

2. Payment shall be made by wire transfer. Supplier will be informed about the status of its account in the payment notice. Any discrepancies shall be immediately reported to the purchaser.

3. In the event of delivery of defective goods, purchaser shall be entitled to withhold a portion of the purchase price proportional to the percentage of defective goods until the defective goods have been replaced.

4. Without the prior written consent of the purchaser, which shall not be unreasonably withheld, supplier shall not be entitled to assign its receivables to third parties or to have such receivables collected by third parties. In the event of an extended reservation of title, such consent is deemed to have been granted. Even if supplier assigns its receivables as against purchaser to a third party without the consent of the purchaser, in violation of the first sentence of this paragraph 4, the assignment remains valid. Regardless of the assignment, purchaser may make payment effectively to either the supplier or the third party, at purchaser's sole discretion.

### 4. Notice of Deficiencies

Purchaser shall inform supplier in writing about any deficiencies of the delivered goods as soon as such deficiencies have been discovered in the course of a regular business practice (it is understood that such notice shall not be made after expiry of the term set forth in Art. 10 par. 3), and, if purchaser complies with the aforesaid condition, supplier hereby waives its right to claim that said notice of deficiency was not timely.

### 5. Confidentiality

1. The contracting parties agree to treat as business secrets all commercial and technical details that come to their knowledge during the course of their business relationship unless such details are publicly known.

2. Drawings, models, patterns, samples and similar objects shall not be made available or otherwise be made accessible to unauthorised third parties. Reproduction of such objects is permitted only to satisfy business requirements and in compliance with the laws on copyright.

3. Sub-suppliers shall be bound by the same obligations.

4. Each contracting party may use the established business relationship for advertising purposes only after having obtained the prior written consent of the other party. Any such request shall be made to the competent purchaser at Automobili Lamborghini S.p.A., 40019 Sant'Agata Bolognese, Italy

### 6. Delivery dates and time limits / conditions for shipment

Agreed delivery dates and time limits are binding. Compliance with such dates or time limits shall be determined with reference to the date of arrival of the goods to be supplied at the purchaser's premises. The supplier shall make the goods available in time taking into account the time usually necessary for loading and shipment. All deliveries shall be made in accordance with the purchaser's instructions. The INCOTERMS are applicable to all commercial terms.

### 7. Delay

1. Supplier is obliged to indemnify the purchaser for damages caused by late delivery, excluding loss of profit and damages resulting from interruption of purchaser's business.

2. In cases of slight negligence, damages shall be limited to additional transportation costs and retrofit costs or to the additional costs resulting from purchases from alternative sources if supplier fails to meet an extended delivery term or if the purchaser's interest in the delivery has become frustrated.

### 8. Force majeure

In cases of Acts of God, strikes, civil commotion, government directives and other unforeseeable, inevitable and severe events, the contracting parties shall be temporarily relieved from their obligations during the period of time such events continue to persist and to the extent their obligations are affected. The foregoing shall also apply if the contracting party affected is already in default at the time such event

occurs. The contracting parties shall give each other, without delay, the necessary information which may reasonably be expected and shall adjust their obligations in good faith to the changed circumstances.

### 9. Quality and Documentation

1. For its deliveries supplier shall comply with the technical state-of-the-art, the safety regulations and the technical data the parties have agreed upon. Any changes to the delivery items require purchaser's prior written consent. For the first sample inspection, reference is made to the VDA-publication "Sicherung der Qualität von Lieferungen - Lieferantenauswahl / Produktionsprozess - und Produktfreigabe / Qualitätsleistung in der Serie", Frankfurt am Main 1998. Supplier shall start series supply only after purchaser has accepted the samples. Notwithstanding the foregoing, supplier shall constantly monitor the quality of the delivery items. The contracting parties shall inform each other about any possibility to improve the quality of the goods to be delivered.

2. If supplier and purchaser have not agreed upon the manner and extent of testing, as well as the instruments and testing methods, purchaser, upon request of the supplier, agrees to discuss the testing with the supplier within the limits of purchaser's know-how, experience and possibilities, in order to determine the necessary state of the art of testing techniques. In addition, purchaser shall, upon request, inform the supplier about any applicable safety regulations.

3. Concerning the parts specially marked in the technical documentation or by means of a separate agreement, for instance with "D", the supplier is, moreover, required to keep special records as to when, in which way and by whom the supplied goods have been tested with regard to the characteristics that need to be recorded and with which results the necessary tests have been performed. Supplier has to store the testing records for ten years and to hand them over to the purchaser if this proves to be necessary. Supplier shall enter into binding agreements with any sub-suppliers, whereby said sub-suppliers undertake the foregoing obligation to the same extent as supplier if legally possible. As a guideline, reference is made to the VDA publication "Nachweisführung - Leitfaden zur Dokumentation und Archivierung von Qualitätsforderungen", Frankfurt am Main 1998.

4. To the extent any authorities competent for vehicle safety, emissions standards and similar issues, demand inspection of the purchaser's manufacturing process and disclosure of its testing records to verify compliance with certain requirements, supplier shall, upon request of the purchaser, concede to such authorities the same rights they have with regard to the purchaser and provide them with the support that can be reasonably expected.

### 10. Warranty

1. If defective goods are delivered, purchaser is entitled, in accordance with the relevant legal requirements and the following clauses as set forth in this article 10 par. 1 and unless the parties have agreed otherwise, to claim the following:

a) Before start of production (processing or fitting) purchaser shall first give to supplier the opportunity to sort out as well as repair or replace such defective goods unless this cannot be reasonably expected from the purchaser. If supplier is unable to accomplish the foregoing or, in any event, if the supplier fails to comply immediately with such obligation, purchaser is entitled to terminate the contract with respect to the defective goods delivered with no further notice and to return the goods to the supplier at the latter's risk. In urgent cases purchaser may, after consultation with the supplier, accomplish the repair itself or have it done by a third party. Any costs resulting therefrom shall be borne by supplier. If the same goods are repeatedly supplied in a defective state, despite written notice sent by purchaser to supplier, purchaser shall be entitled to terminate the contract also with respect to the goods still to be delivered.

b) If the defect is discovered only after start of production and purchaser has complied with the obligations set forth in article 4 (notice of deficiencies), then purchaser is entitled to

- claim remedies, i.e. removal of the deficiency or delivery of non-defective goods and
- claim indemnification for transportation cost (except for towing cost) as well as for dismantling cost and installation (labour cost; cost of material only if agreed upon), all related to such additional remedies, or
- a reduction of the sales price.

In any case, supplier has the right to refuse the remedies chosen by purchaser, if the effort necessary to provide such remedies appears to be disproportionately high compared to the purchaser's interest in obtaining such remedy, if supplier is obliged to provide the remedy personally and cannot be reasonably expected to comply with said obligation, having balanced supplier's reasons for refusing to provide said remedy with the purchaser's interest in obtaining said remedy or if the costs for such remedy are unreasonably high. In this respect it is necessary to take into account the value of the goods in a non-defective state, the relevance of the defect and whether purchaser has the possibility to claim the other type of remedy contemplated in this article 10.1.b without suffering serious prejudice. If supplier, in accordance with the foregoing, rightfully refuses to provide the remedy chosen by purchaser, the latter has the right to claim only the other type of remedy, it being understood that supplier has the right also to refuse to provide such other type of remedy in accordance with the foregoing.

c) If, in addition to the delivery of defective parts, supplier is in breach of further contractual obligations (e.g. information, consultation, or examination obligations), purchaser can claim indemnification for the consequential damages caused by such breach and any consequential damages that supplier has paid to its own customers in compliance with applicable law in accordance with article 11. These consequential damages are the damages that purchaser suffers from the delivery of defective goods, which damages regard goods other than the defective goods delivered by the supplier themselves.

Purchaser may advance further claims regarding expenses and damages caused in connection with the delivery of defective goods only if agreed to by the parties. With regard to new agreements the parties enter into, article 15 paragraph 1 shall apply.

2. At its request, the parts to be replaced shall be made available to supplier at its own costs and without undue delay.

3. The warranty expires 24 months after the first registration of the vehicle or the installation of the replacement part, but in any case 30 months after delivery of the goods to the purchaser. The legal rules applicable to expiry of warranty apply to parts for commercial vehicles, unless the parties have agreed otherwise.

4. A warranty claim does not arise, if the defect is attributable to failure to comply with operation, service or installation instructions, misuse or inappropriate use, improper or careless treatment, normal wear and tear and/or to changes to the supplied goods made by purchaser or a third party.

5. Nothing in this article 10 shall be deemed prejudice the purchaser's right to bring claims on the basis of applicable product liability, tort and/or agency of necessity law if defective goods are delivered. Warranties as to quality and durability have to be declared as such expressly and in writing in any and all cases.

#### 11. Liability

To the extent these conditions do not provide otherwise, supplier is liable for any damages directly or indirectly caused to purchaser as a result of supply of defective goods, violation of official safety regulations or for any other reason attributable only to supplier, in accordance with the following.

1. Liability for damages does, in general, only exist if such damages are caused by the supplier's fault.

2. If purchaser is liable under any applicable law that provides for absolute or strict liability (i.e. liability without fault or negligence) that cannot be excluded with regard to third party claimants, then supplier shall hold the purchaser free and harmless from any claim to the extent Supplier would itself be directly liable. In determining how much of a given claim must be borne by purchaser and supplier respectively, the principles of contributory negligence shall be applied, taking into account the degree of fault of each party; both parties are also responsible for the acts and omissions of their respective agents and auxiliary persons. Failure by one party to avoid or mitigate the damage is also deemed to be contributory negligence. This clause 11.2 shall also apply if the supplier is directly liable.

3. Any liability is excluded to the extent purchaser itself has effectively excluded any liability vis-à-vis its customer. In doing so, purchaser shall attempt to stipulate limitations of liability in favour of the supplier to the extent legally possible.

4. Any claims of the purchaser shall be excluded to the extent that the damage is caused by purchaser's failure to comply with operating, maintenance and installation instructions, by misuse or inappropriate use, by improper or negligent treatment, natural wear and tear or improper repair.

5. To the extent provided for by applicable law, supplier shall indemnify purchaser in respect of any actions that purchaser takes to avoid any damage (e.g. recall actions).

6. If purchaser intends to assert a claim against supplier in accordance with the foregoing, purchaser shall consult with and fully inform supplier without undue delay. Purchaser shall give supplier the opportunity to examine the damage occurred. The contracting parties shall consult each other on the steps to be taken, especially in the case of settlement negotiations.

7. The principles defined in article 7 par. 1 shall apply accordingly if the supplier has no or insufficient insurance coverage.

#### 12. Intellectual Property Rights

1. Supplier is liable for any claims that arise, in case of use of the goods in accordance with the contractual terms, from the infringement of intellectual property rights, whether existing or applied for (intellectual property rights), and if at least one of such intellectual property rights derives from a registration either in the country where supplier has its legal domicile, by the European Patent Office or in the Federal Republic of Germany, France, Great Britain, Austria, Italy or the United States of America.

2. Supplier shall hold purchaser and purchaser's customers free and harmless from all liability resulting from use of such intellectual property rights.

3. The foregoing shall not apply to the extent supplier has manufactured the goods to be delivered on the basis of drawings, models or similar descriptions or statements provided by purchaser and if, at the same time, supplier either did not know or, in connection with the products developed by it, could not have known that intellectual property rights were infringed.

4. If and to the extent that supplier is not liable under Article 12, Paragraph 3, purchaser shall hold supplier free and harmless from all claims by third parties.

5. The contracting parties shall inform each other without undue delay of all risks of violation or alleged violations and give each other the opportunity to jointly oppose such claims.

6. At the purchaser's request, supplier shall inform the purchaser about the use of any registered or unregistered intellectual property rights relating to the goods to be delivered irrespective of whether they are owned by it or licensed to it, including any pending applications.

7. The rules set forth in article 7 paragraph 1 on limitation of liability shall apply accordingly.

#### 13. Use of production aids and confidential information made available by the purchaser

Models, original drawings, patterns, samples, tools and other manufacturing aids as well as confidential information provided to the supplier by the purchaser or paid for in full by the latter, may be used for supplies to third parties only after having obtained the prior written consent of the purchaser.

#### 14. Reservation of Title

Supplier retains ownership of all material supplied by it until such goods have been paid for in full; in this regard, all shipments shall be considered as part of one continuous supply transaction. In the event of continuous invoicing, the retained ownership shall be deemed to secure the balance owed by the purchaser to the supplier at any given time. If the purchaser combines the goods delivered with other goods to form a unit, that is considered primary if compared to its components, purchaser is obliged to assign partial ownership to the supplier to the extent purchaser becomes the owner of such primary unit. If purchaser resells the delivered goods according to the contractual terms, purchaser hereby assigns to the supplier all claims against its customers including any ancillary rights until all of the supplier's claims are completely satisfied.

If there is a valid reason, purchaser, at the supplier's request, shall inform the third-party-purchaser about such assignment and shall provide supplier with all information and documents necessary to assert its rights.

Supplier shall release the guarantees held by it if and to the extent their value exceeds the claim to be secured by more than 20%.

#### 15. General Provisions

1. The amount of damages to be paid by the supplier pursuant to articles 7, 10, 11, and 12 shall be determined by taking into account, in favour of the supplier, the economic situation of the supplier, the nature, extent, and duration of the business relationship, possible contributory negligence of the purchaser applying the principle of contributory negligence as defined in Art. 11.1 sections 2 and 3, and a particularly disadvantageous position of installation of the supplier's part within the assembled car. In particular, damages, costs and expenditures that supplier has to bear shall be proportionate to the value of the delivered part.

2. If one of the contracting parties ceases to make payments when due, or becomes insolvent or enters into a non-judicial composition with creditors, the other party shall be entitled to terminate the contract to the extent such contract has not yet been performed.

3. Should one of the provisions of these conditions or of any additional agreement between the parties be or become invalid, the validity of the remaining part of these conditions and of such additional agreement shall not be affected thereby. The contracting parties shall replace the invalid provision with another term having, to the extent possible, an equivalent commercial effect.

4. Place of performance is the purchaser's legal domicile. The parties may, however, agree to have the goods delivered to a location other than the purchaser's legal domicile.

5. The English language text of these General Conditions is legally binding. To the extent the parties have not agreed otherwise, the German language texts of any other contractual documents that are available in different languages, one of which is German, shall be legally binding.

6. If supplier has its legal domicile within the territory of the Federal Republic of Germany, these General Conditions for the Purchase of Production Material are governed by German law and supplier agrees expressly that any and all controversies arising out of or in relation to these General Conditions for Purchase and the contracts concluded between the parties on their basis will be settled exclusively by the competent courts of Ingolstadt, Germany.

If supplier has its legal domicile outside the territory of the Federal Republic of Germany, the present General Conditions for the Purchase of Production Material are governed by Italian law. Should the supply in question constitute a subcontract within the meaning of Law no. 192 of June 18, 1998, the parties shall attempt to resolve all disputes concerning the interpretation or performance of the relationship governed by these Conditions or by contracts concluded between the parties on their basis by means of conciliation at the Camera di Commercio, Industria, Artigianato e Agricoltura (Chamber of Commerce, Industry and Agriculture) for the territory in which the Supplier's principal place of business is located, provided that the Supplier's principal place of business is in Italy. In that case, if a conciliation is not reached within 30 (thirty) days, the dispute in question shall be resolved exclusively by the courts of Bologna. If supplier has its legal domicile outside the territory of Italy or if the supply in question does not constitute a subcontract within the meaning of Law. No. 192 of June 18, 1998, the parties agree that any and all controversies arising out of or in relation to these General Conditions for Purchase and the contracts concluded between the parties on their basis will be settled exclusively by the competent courts of Bologna, Italy.

The applicability of the UN Convention on International Sale of Goods, of April 11, 1980 is hereby expressly excluded.

Place, date: \_\_\_\_\_  
Supplier  
(signature and seal)

For purposes of Articles 1341/1342 of the Italian Civil Code, the Supplier (whenever it has its legal domicile outside of Germany) hereby declares that it expressly approves the following clauses:

2. Orders
3. Payment
4. Notice of deficiencies
5. Confidentiality
9. Quality and documentation
10. Warranty
12. Intellectual property rights
13. **Use of production aids and confidential information made available by the purchaser**
15. General provisions

Place, date: \_\_\_\_\_  
Supplier  
(signature and seal)